

COUNTY COUNCIL  
OF  
HARFORD COUNTY, MARYLAND

BILL NO. 08-55 As Amended

Introduced by Council President Boniface at the request of the County Executive

Legislative Day No. 08-29 Date: December 2, 2008

AN ACT to repeal and reenact, with amendments, Chapter 146, Hazardous Materials, of the Harford County Code, as amended; to specifically prohibit any person from discharging or allowing the discharge of any hazardous substance into the environment; to permit the Division of Emergency Operations to investigate suspected, as well as confirmed release of hazardous materials; and to update terminology to coincide with that used in the federal statutes and regulations on which the County's enforcement provisions are based.

By the Council, December 2, 2008

Introduced, read first time, ordered posted and public hearing scheduled

on: January 6, 2009

at: 7:00 PM

By Order: Barbara J O'Connor, Council Administrator

**PUBLIC HEARING**

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on January 6, 2009, and concluded on January 6, 2009.

Barbara J O'Connor, Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.



Section 1. Be It Enacted By The County Council of Harford County, Maryland that Chapter 146, Hazardous Materials, of the Harford County Code, as amended, be, and it is hereby, repealed and reenacted, with amendments, all to read as follows:

**Chapter 146. Hazardous Materials**

**Article I. General Provisions**

**§ 146-1. Title.**

This article shall hereafter be referred to as the “Harford County Hazardous Materials Article.”

**§ 146-2. Purpose and intent.**

A. The purposes of this Article are:

(1) To establish effective programs and to provide additional and cumulative remedies to prevent, abate and control pollutants or combinations of pollutants, toxic materials or hazardous [materials] SUBSTANCES and waste.

(2) To protect the citizens, property and employees of Harford County from the health hazards and other risks resulting from releases or incident to the use, storage, distribution, possession or transportation of hazardous substances.

B. This Article is enacted pursuant to the enabling powers conferred by the Annotated Code of Maryland, Article 25A, §5 (A), (B), (J) and (T); ~~Article 16A, § 7; § 14-109 OF THE~~ PUBLIC SAFETY ARTICLE; and the Environment Article of the code. This Article is not intended to supersede state responsibility and authority in the subject matters covered by this Article.

**§ 146-3. Definitions.**

For the purposes of this Article, the following definitions shall be used:

ACT – The Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C § 1102 et seq., all



amendments thereto and all federal regulations promulgated pursuant to the act.

ACT OF GOD – An unanticipated natural disaster or other natural phenomenon of exceptional, inevitable and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care.

ARTICLE – Article I, General Provisions, of Chapter 146 of the Harford County Code.

AUTHORITY – The [Chief] MANAGER of the Division of Emergency Operations or the [Chief's] MANAGER'S duly authorized designee. In the event of a vacancy in the position of [Chief] THE MANAGER of the Division of Emergency Operations, the Director of Administration or the Director's duly appointed designee shall constitute the authority.

CODE – Maryland Annotated Code.

COUNTY – Harford County, Maryland.

DEPARTMENT – Division of Emergency Operations.

DIRECTOR OF ADMINISTRATION – THE DIRECTOR OF ADMINISTRATION FOR HARFORD COUNTY, MARYLAND AS SET FORTH IN § 312 OF THE HARFORD COUNTY CHARTER, AS AMENDED

ENVIRONMENT – ANY LAND SURFACE OR SUBSURFACE STRATAS, ANY WATER SURFACE INCLUDING NAVIGABLE WATERS, WATERS OF THE CONTIGUOUS ZONE, OCEAN WATERS, GROUND WATERS, DRINKING WATER SUPPLY AND ANY OTHER SURFACE WATER AND AMBIENT AIR WITHIN THE JURISDICTION HAVING AUTHORITY.

FACILITY – Any buildings, structures, accessory structures, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, lagoon, impoundment, ditch, landfill, storage container and other stationary items which are



located on a single site or a contiguous or adjacent site which are owned, occupied or operated by the same person or entity and which manufacture, produce, use, import, export, store, supply or distribute any hazardous [material] SUBSTANCE.

HAZARDOUS MATERIALS RESPONSE TEAM – A team of individuals who are organized and trained for the primary purpose of providing emergency services, including removal and remedial actions, in response to the release of a hazardous substance.

HAZARDOUS SUBSTANCE:

- [A. Any substance designated pursuant to Section 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) {42 U.S.C. § 9601(14)}, as amended, and regulations enacted pursuant thereto; or
- B. Gas, as defined by Maryland Annotated Code, Natural Resources Article, § 6-102, as amended; or
- C. Oil, as defined by the Code, Natural Resources Article, § 6-102, as amended; or
- D. Motor vehicle fuel, as defined by the Code, Article 56, § 135, as amended; or
- E. Petroleum products, as defined by the Code, Article 56, § 135, as amended;
- F. Low-level nuclear waste.]

A. ANY SUBSTANCE OR MATERIAL DESIGNATED BY ANY OF THE FOLLOWING OR AS AMENDED, AND REGULATIONS ENACTED PURSUANT THERETO OF ANY OF THE FOLLOWING:

- (1) SECTION 9601(14) OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980 (CERCLA) {42 U.S.C. § 9601(14)}.
- (2) 49 CFR PARTS 172.101, HAZARDOUS MATERIALS TABLE.



B. ANY GAS, OIL, MOTOR VEHICLE FUEL OR PETROLEUM PRODUCTS, AS  
DEFINED BY MARYLAND ANNOTATED CODE, ENVIRONMENT ARTICLE §  
4-401.

C. ANY RADIOLOGICAL OR NUCLEAR SUBSTANCE, ANY MIXTURE OR  
SOLUTION OF RADIONUCLIDE OR LOW LEVEL NUCLEAR WASTE AS  
DEFINED BY 40 CFR PART 302, TABLE 302.4, APPENDIX B.

[G]D. "Hazardous substance" does not include fly ash, bottom ash, slag, ANIMAL  
WASTE, HUMAN WASTE, and other by-products generated from the combustion  
of fossil fuels.

[HCEOD]HCDEO – The Harford County DIVISION OF Emergency Operations [Division].

PERSON – An individual, corporation, firm, association, partnership, joint venture, commercial  
entity, public utility, trust, estate, public or private institution, group, agency, political  
subdivision and any legal successor, representative or agency of the foregoing.

RELEASE – Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting,  
escaping, leaching, dumping or disposing into the environment of a hazardous substance,  
including but not limited to the abandonment or discarding of barrels, containers and other  
receptacles containing a hazardous substance. "Release" does not include a discharge  
permitted by state or federal law.

RESPONSE:

A. [The cleanup of released hazardous substances from the environment;] THE  
ASSESSMENT OF SUSPECTED HAZARDOUS SUBSTANCES OR THE  
MITIGATION OF RELEASED HAZARDOUS SUBSTANCES FROM A  
FACILITY OR THE ENVIRONMENT;



1           B.     Such actions as may be necessary to monitor, assess and evaluate the release of  
2                   hazardous substances; or

3           C.     The disposal of removed materials.

4   RESPONSE ACTION – Those actions taken to prevent or minimize the release of hazardous  
5       substances, OR SUSPECTED RELEASE OF HAZARDOUS SUBSTANCES, including but  
6       not limited to storage, confinement, neutralization, cleanup of hazardous substances or  
7       associated contaminated materials, recycling, destruction, perimeter protection, segregation  
8       of reactive wastes, repair or replacement of damaged or leaking containers, collection of  
9       leachate and runoff, on-site treatment or incineration, provision of alternate water supplies  
10      and any monitoring reasonably required to assure that such actions taken protect the public  
11      health and welfare and OF the environment.

12   RESPONSE COST – Includes the following:

13           A.     Disposable materials and supplies acquired, consumed and expended specifically for  
14                   the purpose of the response to the hazardous substance release OR SUSPECTED  
15                   HAZARDOUS SUBSTANCE RELEASE.

16           B.     Rental or leasing of equipment used specifically for the response; for example,  
17                   protective equipment or clothing and scientific and technical equipment.

18           C.     Replacement costs for equipment that is contaminated beyond reuse or repair during  
19                   the response, including, by way of illustration and not limitation, self-contained  
20                   breathing apparatus, protective equipment or clothing and scientific and technical  
21                   equipment irretrievably contaminated during the response.

22           D.     A surcharge related to the depletion of the useful life of any equipment, materials or  
23                   supplies with a limited useful life span.



- 1 E. Decontamination of equipment contaminated during the response.
- 2 F. Total compensation associated with the response, including but not limited to
- 3 benefits (FICA, insurance), of county employees or members of the hazardous
- 4 materials response team who are not Harford County permanent employees, to
- 5 include regular and overtime pay, at the rate set for members of the hazardous
- 6 materials response team, for permanent full-time and other than full-time employees
- 7 or members, and any contractor, subcontractor or agent.
- 8 G. Special technical services specifically required for the response; for example, costs
- 9 associated with the time, equipment and efforts of technical experts or specialists.
- 10 H. Any tests to determine the physical, chemical or biological properties of the released
- 11 items and monitoring the site and adjoining areas.
- 12 I. Other special services, including but not limited to utilities specifically required for
- 13 the response, as determined by the Authority.
- 14 J. Costs associated with the services, including housing and cost of care, supplies and
- 15 equipment used to conduct an evacuation during the response.
- 16 K. Administrative costs, including but not limited to attorneys' fees and court costs.

17 **RESPONSIBLE PERSON:**

- 18 A. Any person who:
- 19 (1) [Is the nongovernmental owner or operator of a vehicle or a site containing a
- 20 hazardous substance.] IS THE OWNER OR OPERATOR OF A VEHICLE,
- 21 VESSEL, FACILITY OR ANY OTHER UNDEFINED SITE, OR ANY
- 22 PERSON WHO WOULD HAVE BEEN THE OWNER IMMEDIATELY



PRIOR TO THE ABANDONMENT OF A VEHICLE, VESSEL, FACILITY  
OR ANY OTHER UNDEFINED SITE.

(2) At the time of the release of any controlled hazardous substance, was the  
[nongovernmental operator or owner of any site] OWNER OR OPERATOR  
OF THE VEHICLE, VESSEL, FACILITY OR ANY OTHER UNDEFINED  
SITE at which the hazardous substance was released.

(3) By contract, agreement or otherwise arranged for disposal or treatment or  
arranged with a transporter for transport for disposal or treatment of a  
hazardous substance owned or possessed by such person or by any other party  
or entity at any site owned or operated by another party or entity and  
containing such hazardous substances.

(4) Accepts or accepted any hazardous substance for transport to a disposal or  
treatment facility or any sites selected by the person.

B. "Responsible Person" does not include a holder of a mortgage or deed of trust who  
acquires title through foreclosure to a site containing a hazardous substance as the  
result of a release.

TRANSPORT – The movement of a hazardous substance by any mode, including pipeline, and, in  
the case of a hazardous substance which has been accepted for transportation by a common  
carrier or contract carrier, the term "transport" shall include any stoppage in transit which is  
temporary and incidental to the transportation movement; such stoppage shall be considered  
as a continuity of the movement and shall not constitute storage of the substance.

VEHICLE – Any truck, railroad car, water vessel, airplane or other transportation vehicle used to  
ship, carry or transport a hazardous substance.



**§ 146-4. [(Reserved)] PROHIBITED ACTS.**

A. NO PERSON SHALL DISCHARGE OR ALLOW THE ESCAPE OR INTRODUCTION OF ANY HAZARDOUS SUBSTANCE ONTO ANY PUBLICLY OR PRIVATELY OWNED PROPERTY OR WATERWAY OR THE ENVIRONMENT WITHIN THE COUNTY UNLESS SUCH DISCHARGE IS PERMITTED UNDER FEDERAL OR STATE LAWS AND REGULATIONS, OR REGULATIONS OF THIS ARTICLE OR ANY REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE. A DISCHARGE OR ESCAPE INCLUDES BUT IS NOT LIMITED TO AN OCCURRENCE:

(1) DUE TO A LACK OF MAINTENANCE ON ANY STORAGE CONTAINER OR VEHICLE IN WHICH THE HAZARDOUS SUBSTANCE IS STORED OR CONTAINED.

(2) THAT IS A RESULT OF THE LACK OF PROPER TRAINING AND PROCEDURES ASSOCIATED WITH THE STORAGE, CONTAINMENT, USE OR TRANSPORT OF A HAZARDOUS SUBSTANCE.

(3) DUE TO THE HAZARDOUS SUBSTANCE NOT BEING STORED, CONTAINED, TRANSPORTED OR DEPOSITED IN COMPLIANCE WITH FEDERAL, STATE OR COUNTY LAWS OR REGULATIONS.

(4) THAT IS THE RESULT OF A PERSON WHO FAILED TO TAKE ACTION RECOMMENDED BY A FEDERAL, STATE OR COUNTY AGENCY WITH REGARD TO STORAGE, CONTAINMENT, TRANSPORT OR DEPOSIT OF ANY HAZARDOUS SUBSTANCE.

(5) THAT IS THE RESULT OF A CRIMINAL ACT.



B. FAILURE TO COMPLY WITH NOTIFICATION REQUIREMENTS SET FORTH IN §  
146-6 OF THIS ARTICLE.

**§ 146-5. Recovery of response costs.**

A. Notwithstanding any other provision or rule of law, regardless of whether intentionally or negligently allowed and subject only to the defenses set forth in Subsection B of this section, a responsible person, as defined herein, shall pay to the county all costs of response action incurred by the [HCEOD] HCDEO, all costs of response action incurred by a volunteer fire and ambulance company, and all costs of response action incurred by a volunteer ambulance company:

(1) AMOUNT. In an action to recover response costs, the county may include operational, administrative, personnel, payroll and legal costs incurred from its initial response action up to the time that it recovers its costs. The amount attributable to administrative and legal costs shall be 15% of the amount paid for the response action or the actual costs, whichever is greater.

(2) The authority shall [have the authority to] promulgate rules and regulations which set forth the rates to be charged for response costs under this section.

B. Presumptions. There shall be a presumption that any person who owns and/or has a present possessory interest in any private property on which any discharge or escape of a hazardous substance OR SUSPECTED HAZARDOUS SUBSTANCE occurs has permitted or allowed the discharge or escape.

C. Defenses. There shall be no presumption of liability under this Article for a person otherwise liable who can establish, by a preponderance of the evidence, that the release or threatened release of a hazardous substance was caused solely by:



(1) An act of God.

(2) An act of war.

D. Waivers.

(1) Upon written application, the Director of Administration, at the Director's sole discretion, may waive all or any portion of the charges assessed under this section if the release WAS REPORTED IMMEDIATELY UPON DISCOVERY TO THE PROPER FEDERAL, STATE, AND LOCAL AUTHORITIES, AND ANY OF THE FOLLOWING:

(a) Occurred because of circumstances that could not reasonably have been foreseen by the ~~reasonable~~ RESPONSIBLE person; OR

(b) Was not similar to any release involving the same responsible person and similar circumstances that occurred during the previous [one hundred eighty (180)] 180 calendar days; ~~AND~~ OR

[(c) Was not the result of a failure to take an action recommended by a federal, state or county agency concerning the proper storage, containment, transportation or deposit of the type of hazardous substance involved in the release; and

(d)](C) ~~Was reported immediately upon discovery to the proper federal, state and local authorities~~ OCCURRED ON LAND USED FOR AGRICULTURAL OPERATIONS ALREADY REGULATED BY FEDERAL, STATE, OR LOCAL LAWS.

(2) An application filed under this subsection shall include supporting evidence for the requested waiver.



**§ 146-6. Emergency notification requirements.**

A. Facility or transportation accident or incident. Except as provided in subsection D of this section, the owner or operator of a facility that manufactures, produces, uses, imports, exports, stores, supplies or distributes any hazardous substance and the owner or operator of a vehicle that ships, transports or carries any hazardous substance or extremely hazardous substance to, within, through or across this county shall immediately report the release or discharge of the HAZARDOUS substance.

B. Contents. Initial notification shall be made by the owner or operator of a facility by calling the [twenty-four] 24-hour response telephone number (911 or such other number as is designated by the authority) of the [HCEOD] HCDEO. The notification shall include each of the following to the extent known at the time of the notice and so long as no delay in responding to the emergency results:

- (1) The name and telephone number of the person making the notification.
- (2) The time, location and duration of the release.
- (3) The medium into which the release occurred.
- (4) The name of the person employed by the owner or operator of the facility or vehicle who has the authority or responsibility to supervise, conduct or perform any cleanup activities required at the release site or to contract for the performance of any cleanup activities at the release site.
- (5) The chemical name or identity of any substance involved in the release.
- (6) An indication of whether the substance is an extremely hazardous substance or other hazardous material or appears on [a] THE federal or county list of hazardous [materials] SUBSTANCES as periodically amended.



(7) An estimate of the quantity of the substance that was released into the environment.

(8) Any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals.

(9) Proper precautions to take as a result of the release, including evacuation, unless the information is readily available to the community emergency coordinator under an emergency plan, and any other relevant information which may be requested.

(10) The name and telephone number of the person to be contacted for further information.

(11) Additional information required by federal or state or county regulations.

C. Written report. Within [fourteen (14)] 14 calendar days after a release which required [notice under this section, the owner or operator of a facility and the owner or operator of a vehicle] A NOTIFICATION UNDER THIS SECTION, THE RESPONSIBLE PERSON shall provide a written follow-up emergency notice or notices, if more information becomes available, to the [HCEOD] HCDEO setting forth and updating the information required under Subsection B and including THE additional FOLLOWING information with respect to:

(1) Actions taken to respond to and contain the release.

(2) Any known or anticipated acute or chronic health risks associated with the release.

(3) Advice regarding medical attention necessary for exposed individuals, where appropriate.

(4) Actions to be taken to mitigate potential future incidents.

(5) Actions taken in accordance with the requirements of the [HCEOD] HCDEO.



D. Exception. The provisions of this section shall not apply to a release of a hazardous substance if the release of such substance is exempted, excluded or permitted by federal or state statute, law, rule or regulation.

**§ 146-7. Right of entry; monitoring; testing.**

A. Entry. A hazardous materials response team may:

(1) Enter onto any private or public property on which a release OR SUSPECTED RELEASE of a hazardous substance has occurred.

(2) Enter onto any adjacent property to which the release OR SUSPECTED RELEASE has entered.

(3) Enter onto any private or public property in order to:

(a) Respond to the release OR SUSPECTED RELEASE.

(b) Monitor and contain the release OR SUSPECTED RELEASE.

(c) Perform cleanup and response actions.

(d) Perform any other activities deemed necessary to [respond to the release]

THE RESPONSE OF THE RELEASE OR SUSPECTED RELEASE.

B. Monitoring/inspection. In order to determine compliance with this Article and this chapter, the [HCEOD] HCDEO may send representatives to a facility or vehicle site, during normal business hours, to inspect the facility or vehicle and to request information or reports from the facility or vehicle owner or operator concerning the chemical name, identity, amount or any other information necessary for THE emergency planning and response purposes for any substance, liquid, mixture, compound, material or product manufactured, produced, used, stored, supplied, imported, exported or distributed at, to or from the facility or vehicle.



C. Testing. Should a representative of the [HCEOD] HCDEO determine during the course of a facility or vehicle inspection that the chemical name, identity, amount or any other requested information for any substance, liquid, mixture, compound, material or product present at the facility or vehicle cannot be identified or determined to [his] THE REPRESENTATIVE'S satisfaction due to the lack of proper labeling, placarding, recordkeeping or for any other reason, the representative shall have the authority to take a sample or specimen of the substance, liquid, mixture, compound, material or product, in those amounts deemed necessary, in order to have the sample or specimen tested and analyzed either at the time of the inspection or subsequent to the inspection at a county or private laboratory. The purpose of the test or analysis shall be to identify the chemical properties of the sample or specimen or to determine the amount of the substance, liquid, mixture, compound, material or product manufactured, produced, used, stored, supplied, imported, exported or distributed at, to or from the facility or vehicle. The owner or operator of [a] THE facility or vehicle shall pay any testing and laboratory analysis costs incurred by the [HCEOD] HCDEO if the material tested is found to be a hazardous substance.

D. Emergency situations. Should a release OR SUSPECTED RELEASE of a known or unknown substance, liquid, mixture, compound, material or product occur at a facility or vehicle site, which endangers or has the potential to endanger the health, safety and welfare of the public, employees of the facility, the vehicle's owner or operator or employees of the owner or operator of the vehicle OR THE ENVIRONMENT OR PERSONAL PROPERTY OF ANOTHER, the [HCEOD] HCDEO may send representatives to the facility or vehicle site at any time in order to inspect the facility or vehicle and to assess the danger posed by the release and to obtain samples and specimens of the substance, liquid, mixture, compound,



material or product involved and to perform any other emergency response activities deemed necessary by the [HCEOD] HCDEO.

**§ 146-8. Control of THE scene.**

The senior fire company official on the scene will be the incident commander. The senior fire company official may transfer control of the scene to the [HCEOD] HCDEO upon express agreement of both parties.

**§ 146-9. Notice of violation (NOV).**

A. Issuance. The authority may issue a NOV if:

(1) [t]There are reasonable grounds to believe that the RESPONSIBLE person to whom the NOV is directed has violated:

[(1)](A) This Article.

[(2)](B) Any rule or regulation adopted pursuant to this Article.

[(3)](C) Any order issued pursuant to this Article.

(2) THE RESPONSIBLE PARTY OF A FACILITY THAT MANUFACTURES, PRODUCES, USES, IMPORTS, EXPORTS, STORES, SUPPLIES OR DISTRIBUTES ANY HAZARDOUS SUBSTANCE THAT IS REQUIRED TO SUBMIT A TIER II FORM UNDER §312(E)(1) OF THE ACT FAILS TO COMPLY WITH REPORTING REQUIREMENTS OF THE ACT.

B. Contents. A NOV issued under this section shall:

(1) Specify the provision(s) that allegedly have been violated.

(2) State the facts in support of the alleged violation.

(3) STATE ANY FINES IN ACCORDANCE WITH THIS ARTICLE.



(4) STATE ANY ORDERS OR CORRECTIVE ACTIONS IN ACCORDANCE WITH  
THIS ARTICLE.

**§ 146-10. Issuance of notice or order.**

A. In general. After or concurrently with service of a complaint under this Article, the authority  
may:

(1) Issue an order that requires the person to whom the order is directed to take  
corrective action within a time set forth in the order.

(2) Send a written notice that requires the person to whom the notice is directed to file a  
written report about an alleged violation.

(3) Send a written notice that requires the person to whom the notice is directed:

(a) To appear at a hearing at a time and place scheduled in order to answer the  
charges in the complaint; or

(b) To file a written report and also appear at a hearing at a time and place set to  
answer the charges in the complaint.

B. Effective date of order. Any order issued under this chapter is effective immediately  
according to its terms upon service.

**§ 146-11. Service.**

A. Manner of service. Any complaint, order, notice or other instrument issued by the authority  
pursuant to this Article may be served on the person to whom it is directed:

(1) Personally.

(2) By publication on or at the entranceway to the premises or property from which THE  
discharges occur.



(3) By certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the person's last known address as shown on the Department's records.

B. Certificate of service. If service is made by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, the person who mails the document shall file with the authority verified proof of mailing.

**§ 146-12. Hearings.**

A. Hearing on order. Within [ten (10)] 10 days after being served with an order, the person served may request a hearing by writing to the Director of Administration.

B. Subpoenas; witnesses.

(1) In connection with any hearing under this section, the [administrator] DIRECTOR OF ADMINISTRATION may:

(a) Subpoena any person or evidence.

(b) Order a witness to give evidence.

(2) A subpoenaed witness shall receive the same fees and mileage reimbursement as if the hearing were part of a civil action.

**§ 146-13. Final corrective order.**

A. Unless the person served with an order makes a timely request for a hearing pursuant to § 146-12, the order becomes a final order within [ten (10)] 10 days after service.

B. If a person who has been issued an order under this Article makes a timely request for a hearing, i.e., requests a hearing within [ten (10)] 10 days after service in accordance with § 146-11, the order becomes a final corrective order when the [administrator] DIRECTOR OF ADMINISTRATION renders his decision following the hearing.



**§ 146-14. (Reserved)**

**§ 146-15. Injunctive relief.**

A. In general. The county may bring an action for an injunction against any person who violates any provision of this Article or any rules, regulations, order or permit adopted or issued under this Article.

B. [Administrator's]DIRECTOR OF ADMINISTRATION'S findings. In any action for an injunction under this section, any finding of the [administrator] DIRECTOR OF ADMINISTRATION after a hearing is prima facie evidence of each fact the [administrator] ADMINISTRATION determines.

C. Grounds. On a showing that any person is violating this section or any rule, regulation, order or permit adopted or issued by the county, the court shall grant an injunction without requiring a showing of a lack of an adequate remedy at law.

D. Emergency. If an emergency arises due to imminent danger to the public health or welfare or imminent danger to the environment, the county may sue for an immediate injunction to stop any pollution or other activity that is causing the danger.

**§ 146-16. Civil liability.**

A. No hazardous materialS response team member, member of an industrial hazardous materialS response team, law enforcement officer, ambulance service or rescue squad member, fire fighter or other emergency response personnel engaged in any emergency service or response activities involving a hazardous [material] SUBSTANCE release at a facility or transportation accident site shall be liable for the death of or any injury to persons or loss or damage to property resulting from that hazardous [material] SUBSTANCE release, except for any acts or omissions which constitute willful misconduct.



B. Other. No employee, representative or agent of a county agency or local agency engaged in any emergency service or response activities involving a hazardous [material] SUBSTANCE release at a facility or transportation accident site shall be liable for the death of or any injury to persons or loss or damage to property resulting from that hazardous [material] SUBSTANCE release, except for any acts or omissions which constitute willful misconduct.

**§ 146-17. Civil penalties.**

A. [Any] THE AUTHORITY MAY CHARGE ANY person who discharges or intentionally permits or allows the discharge or escape of hazardous substances [shall be subject to] WITH a civil fine of up to \$1,000 per day. Each day during which a discharge continues or remains uncontained or is not cleaned up or recaptured shall constitute a separate offense AND EACH OFFENSE SHALL BE CHARGED SEPARATELY.

B. Any person who fails to comply with the requirements of § 146-6, Emergency notification requirements, [shall] MAY be subject to a civil fine of up to \$1,000 per offense.

C. These civil penalties shall constitute separate offenses, in addition to any other civil or criminal penalties, fines or offenses provided for pursuant to this Article.

**§ 146-18. Criminal penalties.**

A. Violating ordinances, rules , regulations, orders or permits.

(1) A person who violates any provision or fails to perform any duty imposed by this Article or who violates any provision or fails to perform any duty imposed by any rule, regulation, order or permit adopted or issued under this Article is guilty of a misdemeanor and, on conviction, is subject to a fine not to exceed [one thousand dollars (\$1,000.)] \$1,000 per day per violation or imprisonment not to exceed [six (6) months,] 90 DAYS, or both. Each day a violation occurs is a separate violation.



Each section, subsection, rule, regulation, order or permit condition which is violated constitutes a separate violation.

(2) In addition to any criminal penalties imposed on a person convicted under this section, the person may be enjoined from continuing the violation(s).

B. False statements in required documents. A person is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding [one thousand dollars (\$1,000.)] \$1,000 per day per violation or imprisonment not to exceed [six (6) months] 90 DAYS per violation, or both, if the person:

(1) Knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under this Article or any rule, regulation, order or permit adopted or issued under this Article.

(2) Falsifies, tampers with or knowingly renders inaccurate any monitoring device or procedure required to be maintained under this Article or any rule, regulation, order or permit adopted or issued under this Article.

**§ 146-19. Miscellaneous provisions.**

A. Rules and regulations. Pursuant to Section 807 of the Harford County Charter, the [HCEOD] HCDEO shall have the authority to promulgate such rules and regulations as are necessary for implementation of this Article and compliance with the Act.

B. Severability. If any provision, paragraph, word, section or subsection of this Article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and subsections shall not be affected and shall continue in full force and effect.



C. Conflict. All other ordinances or parts of other ordinances or local laws inconsistent with any part of this Article are hereby repealed to the extent of such inconsistency or conflict.

D. In any response action, the authority may not duplicate any response action taken under the Act or the Code.

**Article II. Transportation**

**§ 146-20. Notification of county.**

Any person who transports high-level nuclear waste into, within, through or out of Harford County by any road or highway shall notify [Central Alarm of Harford County] THE HCDEO of such activity. Notification shall be made in writing or by telephone to [Central Alarm] THE HCDEO prior to shipment. Notification to [Central Alarm] THE HCDEO shall include the following information:

A. Manifest number.

B. Name of shipper.

C. Name of carrier.

D. Type and quantity of radioactive material.

E. Date and time of shipment.

F. Starting point, scheduled route and destination.

G. Tag number of tractor and trailer.

H. The name of any individual that may be contacted on a [twenty-four] 24-hour basis in case of an emergency.

**§ 146-21. Definitions.**

For the purpose of this Article, the following terms shall have the meanings indicated:

HIGH-LEVEL NUCLEAR WASTE[S] – WILL HAVE ANY OF THE FOLLOWING



1       DEFINITIONS:

2       A.     Irradiated nuclear reactor fuel.

3       B.     Liquid waste from operation of the first cycle solvent extraction system and the  
4             concentrated waste from subsequent extraction cycles or their equivalent in a facility  
5             for reprocessing irradiated reactor fuel.

6       C.     Solvents into which such wastes have been converted.

7       **§ 146-22. Exemptions.**

8       Exempted from the provisions of this chapter are any radioactive materials shipped by or for the  
9       United States government for military or national security purposes which are related to the national  
10      defense and any high-level nuclear waste that is transported interstate on I-95.

11      **§ 146-23. Maintenance of log.**

12      [Central Alarm] THE HCDEO shall keep a separate and continuous log of each notification. The log  
13      shall include the information that shall be supplied by any person who transports high-level nuclear  
14      waste into, within, through or out of Harford County. The public may have access to the log during  
15      normal operating hours and may, upon payment of the appropriate fee, obtain a copy of the pages of  
16      the log.

17      **§ 146-24. Violations and penalties.**

18      Any person who fails to notify [Central Alarm] THE HCDEO of such shipment [shall] MAY be  
19      subject to [a traffic citation. The violator may waive his right to a court hearing by paying a fine of  
20      two hundred dollars (\$200.) \$200, payable to the Treasurer of Harford County within thirty (30) 30  
21      days from the date of the alleged violation.] ENFORCEMENT ACTION UNDER STATE OR  
22      FEDERAL LAW.

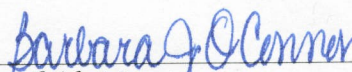
23      Section 2.     And Be It Further Enacted that this Act shall take effect 60 calendar days from the date



1 it becomes law.

EFFECTIVE: March 16, 2009

*The Council Administrator does hereby certify that  
fifteen (15) copies of this Bill are immediately available for  
distribution to the public and the press.*

  
\_\_\_\_\_  
Council Administrator



**BILL NO. 08-55**  
**As Amended**

HARFORD COUNTY BILL NO. 08-55 As Amended

Brief Title Hazardous Materials

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

**CERTIFIED TRUE AND CORRECT**

Barbara J. O'Connor  
Council Administrator

Date January 6, 2009

**ENROLLED**

Billy Bonfante  
Council President

Date January 6, 2009

**BY THE COUNCIL**

Read the third time.

Passed: LSD 09-01

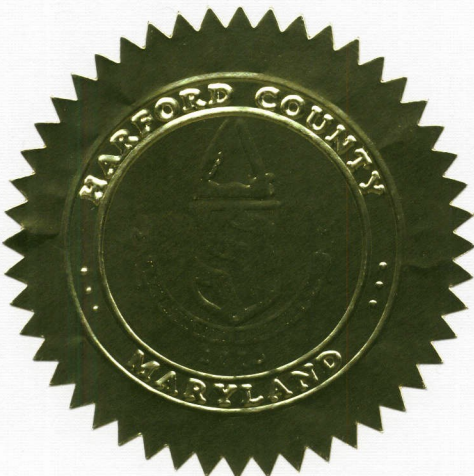
Failed of Passage: \_\_\_\_\_

By Order

Barbara J. O'Connor  
Council Administrator

Sealed with the County Seal and presented to the County Executive for approval this 7<sup>th</sup> day of January, 2009 at 3:00 p.m.

Barbara J. O'Connor  
Council Administrator



**BY THE EXECUTIVE**

David L. Craig  
COUNTY EXECUTIVE

APPROVED: Date January 15, 2009

**BY THE COUNCIL**

This Bill No. 08-55 (As Amended) having been approved by the Executive and returned to the Council, becomes law on January 15, 2009.

EFFECTIVE DATE: March 16, 2009

Barbara J. O'Connor  
Barbara J. O'Connor,  
Council Administrator

**BILL NO. 08-55**  
**As Amended**